

NOTICE OF PROPOSED RULEMAKING
TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

[R23-86]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
R4-11-502 Amend
R4-11-903 Amend
R4-11-1503 Amend
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):
Authorizing statute: A.R.S. § 32-1207
Implementing statute: A.R.S. §§ 32-1201 et seq.
3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rules:
Notice of Rulemaking Docket Opening: 29 A.A.R. 1406, June 23, 2023 (in this issue)
4. The agency's contact person who can answer questions about the rulemaking:
Name: Ryan Edmonson, Executive Director
Address: State Board of Dental Examiners
1740 W. Adams St., Suite 2470
Phoenix, AZ 85007
Telephone: (602) 542-4493
Email: ryan.edmonson@dentalboard.az.gov
5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:
The Board needs to amend its rules to update outdated references and clarify that the Board shall disclose the identity of a licensee in order to ensure there is no conflict of interest during a Clinical Evaluation.
6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material.
None
7. A showing of good cause why the rulemaking is necessary to promote a statewide interest, if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:
Not applicable
8. The preliminary summary of the economic, small business, and consumer impact:
There is little to no economic, small business, or consumer impact, other than the cost to the Board to prepare the rule package, because the rulemaking simply clarifies statutory requirements that already exist. Thus, the economic impact is minimized.
9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:
Name: Ryan Edmonson, Executive Director
Address: State Board of Dental Examiners
1740 W. Adams St., Suite 2470
Phoenix, AZ 85007
Telephone: (602) 542-4493
Email: ryan.edmonson@dentalboard.az.gov
10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:
An oral proceeding regarding the proposed rules will be held as follows:
Date: August 1, 2023
Time: 1:00 p.m.
Location: State Board of Dental Examiners
1740 W. Adams St., Boardroom C
Phoenix, AZ 85007
11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:
None
a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general

permit is not used:

The Board issues general permits to licensees who meet the criteria established in statute and rule.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

12. A list of incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

**TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS**

ARTICLE 5. DENTISTS

Section
R4-11-502. Affiliated Practice

ARTICLE 9. RESTRICTED PERMITS

Section
R4-11-903. Recognition of a Charitable Dental Clinic or Organization

ARTICLE 15. COMPLAINTS, INVESTIGATIONS, DISCIPLINARY ACTION

Section
R4-11-1503. Initial Complaint Review

ARTICLE 5. DENTISTS

R4-11-502. Affiliated Practice

- A. A dentist in a private for profit setting shall not enter into more than 15 affiliated practice relationships under A.R.S. § 32-1289 at one time.
- B. There is no limit to the number of affiliated practice relationships a dentist may enter into when working in a government, public health, or non-profit organization under Section 501(C)(3) of the Internal Revenue Code.
- C. Each affiliated practice dentist shall be available telephonically or electronically during the business hours of the affiliated practice dental hygienist to provide an appropriate level of contact, communication, and consultation.
- D. The affiliated practice agreement shall include a provision for a substitute dentist in addition to the requirements of A.R.S. § ~~32-1289(F)~~ 32-1289(E), to cover an extenuating circumstance that renders the affiliated practice dentist unavailable for contact, communication, or consultation with the affiliated practice dental hygienist.

ARTICLE 9. RESTRICTED PERMITS

R4-11-903. Recognition of a Charitable Dental Clinic or Organization

In order for the Board to make the findings required in R4-11-902, the charitable clinic or organization shall provide information to the Board, such as employment contracts with restricted permit holders, Articles and Bylaws, and financial records.

ARTICLE 15. COMPLAINTS, INVESTIGATIONS, DISCIPLINARY ACTION

R4-11-1503. Initial Complaint Review

- A. The Board's procedures for complaint notification are:
 - 1. The Board shall notify the Licensee, denturist, Business Entity or Mobile Dental Permit Holder by certified U.S. Mail when the following occurs:
 - a. A formal interview is scheduled, and
 - b. A subpoena, notice, or order is issued.
 - 2. The Board shall notify the Licensee, denturist, Business Entity, or Mobile Dental Permit Holder by U.S. mail or email when the following occurs:
 - a. The complaint is tabled, and
 - b. The Board grants a postponement or continuance.
 - 3. Board shall provide the Licensee, denturist, Business Entity, or Mobile Dental Permit Holder with a copy of the complaint.
 - 4. If a complaint alleges a violation of the state or federal criminal code, the Board shall refer the complaint to the proper law enforcement agency.
- B. The Board's procedures for complaints referred to Clinical Evaluation are:
 - 1. Except as provided in subsection (B)(1)(a), the President's Designee shall appoint one or more dental consultants to perform a Clinical Evaluation. If there is more than one dental consultant, the dental consultants do not need to be present at the same time.
 - a. If the complaint involves a dental hygienist, denturist, dental therapist, or dentist who is a recognized specialist in one of the areas listed in R4-11-1102(B), the President's Designee shall appoint a dental consultant from that area of practice or specialty.